

REMARKS

In the Office Action, the Examiner rejected claims 1-10, 12, 14, 17-20 under 35 U.S.C. 102(e) as being anticipated by Legge et al (2002/0034978). The Examiner also rejected claims 11 and 15 under 35 U.S.C. 103(a) as being unpatentable over Legge as to claim 1 and further in view of Eberhart (6404339). The Examiner further rejected claim 13 under 35 U.S.C. 103(a) as being unpatentable over Legge as applied to claim 1 and further in view of Robinson (4591854). The Applicants have amended claims 1-3, 6, 9, 10, 17, 18 and added new claims 21-23. The Applicants have made the above amendments to the claims and respectfully requests reconsideration of the pending claims in light of the amendments and the following remarks.

Claims 1, 17, 18 are independent claims and each have been amended to more clearly define the Applicants' invention. Amended independent claim 1 is directed to a Radio Frequency Identification Device ("RFID") having stored thereon an expiration and a set of data bits. The set of data bits are capable of being presented to a processing device via a RFID reader. This will cause the processing device to enable at least one feature that would otherwise be disabled in an electronic device (such as an electronic game console, a personal digital assistant, a cellular telephone or a pager). This electronic device has a plurality of features. The processing device will also disable the at least one feature when the expiration reaches a predetermined value. Claim 1 was further amended to state that the at least one feature (being enabled) is an *improvement* to a performance or a characteristic of the electronic device (such as new powers, capabilities, characters, calendar updates, or the like). Support for this additional language can be found in the Specification at page 15, lines 14-16.

Independent claim 17 was amended similar to claim 1 in that it also recites that the at least one feature being enabled is an improvement to a performance or a characteristic of the electronic device. However, claim 17 recites that the RFID having stored a counter. Here, the set of data bits presented to the processing device causes the processing device to disable at least one feature that would otherwise be enabled in the electronic device. And, the processing device enables the at least one feature when the counter reaches a predetermined value.

Amended Independent claim 18 is directed to a RFID that has stored thereon a counter and a set of data bits. The set of data bits, when presented to a processing device via a RFID reader,

causes the processing device to *enhance* at least one feature in an electronic device. Again the electronic device has a plurality of features and the at least one feature is an *improvement* to a performance or a characteristic of the electronic device.

Legge describes a system that only allows or disallows access to an attraction, game, or area. For instance, Legge describes an activity station (40) that can be connected to a coin mechanism of a coin-operated machine (paragraph 36), or connected to an automated ticket dispenser (paragraph 37), or placed at each attraction at an amusement park (paragraph 59). Event criteria is placed on a client transponder card (20) (paragraph 41). Legge explains that "[i]f the event criteria permit and the proper credits are available, the activity station 40 will activate the coin mechanism of the machine (100) for game play" (paragraph 46). In the amusement park example, Legge explains that "[i]f access is granted, the customer 200 can pass through the access control system 220, a turnstile here" (paragraph 60). Legge, however, fails to teach having data on the transponder card that changes the nature of a game or ride operates.

In contrast, the claimed invention is different in that a set of data bits on the RFID device *enhances* at least one of many features of an electronic device. This feature is described in the claims as an improvement to a performance or a characteristic of the electronic device. [e.g., Specification, Page 15, Lines 14-16] The claims also require an expiration or counter that turns off the feature that provides the enhancement or improvement to the electronic device.

The benefit of coupling these recitations together is to allow manufacturers and sellers to associate the RFID device with a consumer product. The RFID device provides consumers of the product -- who already have access and use of an electronic device -- the ability to improve the performance and characteristics of the electronic device. The RFID device can dynamically change the nature of an electronic device depending on the data bits on the RFID device. This may change the way a game is played depending upon the data in the presented RFID device.

For instance, Page 16 of the Specification describes that the RFID device can be programmed to enable new powers or capabilities of a game. In particular, a code can be preprogrammed prior to distribution of the product. Later, the code may be updated with advertising gimmicks such as "this week's" game power. An exemplary benefit of allowing the RFID device to be programmed this

way encourages consumers to purchase a new product each week so as to obtain the latest game power. [Specification, Page 16, Lines 3-16]

It is respectfully submitted that Legge fails to teach any improvements to the nature of games, rides, or other activities after a user already has access. Moreover, Legge does not teach having these types of improvements tied to an expiration or counter. Accordingly, the Applicants believe that there is a patentable distinction between access control to an activity and modifying data which improves the nature of the activity.

The Applicants have also added claims 21-23 to break apart the concepts described in original claim 2. Claim 2 focused on the association of an RFID device with a product with the ability to modify the data at different points in the product distribution chain. This again provides several benefits as mentioned above.

Pending claims 2-16, 21-23 depend on independent claim 1. Pending claims 19-20 depend on independent claim 18. These dependent claims are believed to be allowable for at least the same reasons discussed above.

As the Applicants believe that the amendments overcome all substantive rejections and objections given by the Examiner and have complied with all requests properly presented by the Examiner, the applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicants respectfully solicit allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative at (847) 862-0153.

Respectfully submitted,  
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